

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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IN RE: VALSARTAN PRODUCTS  
LIABILITY LITIGATION

CIVIL ACTION NUMBER:  
1:19-md-02875-RBK-JS

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STATUS CONFERENCES  
(Via telephone)

Wednesday, August 26, 2020  
Commencing at 10 a.m.

B E F O R E: THE HONORABLE JOEL SCHNEIDER,  
UNITED STATES MAGISTRATE JUDGE  
THE HONORABLE ROBERT B. KUGLER,  
UNITED STATES DISTRICT JUDGE

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1 ALL PARTIES VIA TELEPHONE, August 26, 2020,  
2 9:58 a.m.)

3 JUDGE SCHNEIDER: This is Judge Schneider. We're on  
4 a phone call. When I called in, there was a message that  
5 there are 51 people on this call. I think that's a record.

6 We're here on the Valsartan MDL litigation, Docket  
7 No. 19-2875. I don't think we need everyone's entry of  
8 appearance on the phone, unless someone has a particular need  
9 to enter their appearance. But why don't we just hear from  
10 the lead counsel for the plaintiffs and defendants and those  
11 who expect to talk during this call.

12 Start with plaintiffs.

13 MR. SLATER: Good morning, Your Honor, Adam Slater on  
14 behalf of the plaintiffs.

15 MR. HONIK: Good morning, Your Honor, Ruben Honik for  
16 the plaintiffs.

17 MR. NIGH: Good morning, Your Honor, Daniel Nigh for  
18 the plaintiffs.

19 MS. WHITELEY: Good morning, Your Honor, Conlee  
20 Whitely for plaintiffs.

21 JUDGE SCHNEIDER: And how about the defendants?

22 MR. GOLDBERG: Good morning, Your Honor, this is Seth  
23 Goldberg for the ZHP parties and defendants.

24 MS. LOCKARD: Good morning, it's Victoria Lockard for  
25 the Teva defendants and defense executive committee.

1 MR. TRISCHLER: Good morning, Your Honor, Clem  
2 Trischler for the Mylan entities.

3 MR. GEOPPINGER: Good morning, Your Honor, Jeffrey  
4 Geoppinger for AmerisourceBergen and wholesaler defendants.

5 MS. JOHNSTON: And good morning, Your Honor, this is  
6 Sarah Johnston for the retailer defendants and CVS.

7 JUDGE SCHNEIDER: I received the letters from  
8 counsel. Thank you very much. Judge Kugler has the letters  
9 as well. After we're done with our issues that we need to  
10 address, he's on notice that he'll join us for any issues that  
11 he needs to address.

12 Before we get to the agenda, are the parties --  
13 there's just one issue I'd like to address with the parties.  
14 There's been a number of recent motions to amend that have  
15 been filed. I know the local rule provides that you have to  
16 indicate whether there's any objection to the motion. It's a  
17 little awkward with so many parties in this case, but do any  
18 of the defendants have any objection to the motions to amend  
19 that have been filed?

20 I just wonder if we can just routinely grant those  
21 without waiting for the return date to see if there's an  
22 objection or not.

23 Defendants, what do you think?

24 MR. GOLDBERG: Your Honor, this is Seth Goldberg. I  
25 have to say, I'm not familiar -- I haven't noticed those

1 motions. What I suggest is, why don't I confer with the  
2 entire defense group after this call and just confirm that we  
3 don't have an objection, and then we can let Mr. Slater know  
4 and we can send Your Honor a short note letting you know.

5 JUDGE SCHNEIDER: Fair enough. Very reasonable. No  
6 problem. Okay.

7 Why don't we get to the agendas of the issues the  
8 parties want to address. Let me just -- bear with me one  
9 moment.

10 Plaintiff, why don't we start with you, any issues  
11 you want to address and then we'll go to defendants, and if  
12 you can just say your name before you talk so that the court  
13 reporter knows who's talking. And whoever is not talking, can  
14 you please put your phone on mute so that the transcript will  
15 be clear.

16 Plaintiffs, the floor is yours.

17 MR. SLATER: Thank you, Your Honor, it's Adam Slater  
18 for the record. Just following the order of the letter we  
19 submitted to Your Honor, the first thing that we raised to the  
20 Court is the issue of the status of the rolling productions.  
21 We also attached our letter to the defense from about a week  
22 or two ago, about two weeks ago. That's Exhibit A.

23 So Your Honor has exactly what issues we had  
24 identified, and what we've tried to do is identify what we  
25 think are some glaring clear examples of things that we would

1 have hoped would not have been issues to start off this  
2 discussion and hopefully maybe head off some other issues  
3 going forward.

4           So, you know, in no particular order of importance,  
5 it's now been established that I don't believe we have  
6 up-to-date privilege logs. We don't have up-to-date compliant  
7 production logs, although I think that issue is being somewhat  
8 fixed. There is one column of information. I think an  
9 agreement has been reached with at least ZHP and Aurobindo as  
10 to what is going to be populated in that column in terms of  
11 the source of documents that are on the production log. But,  
12 you know, those are basic things that we really would need to  
13 have in any case and we really feel like that should be  
14 brought current right away.

15           And then the other major area in the productions, is  
16 that the prioritization, which was put in place months and  
17 months ago and everybody was clear that that was something  
18 that was supposed to be given a focus. It has not been  
19 accomplished yet and we don't have -- we don't even have  
20 certainty from defendants at this point as to when that will  
21 be accomplished. And you know, we asked for previously, I  
22 understood why the Court said, you know, we're not going to  
23 have the defendants give you a timeline for production in  
24 advance, but we're now, you know, approaching 45 days that  
25 this production has been ongoing and we don't have, for

1 example, from ZHP as we pointed out, all of the documents,  
2 including the ESI with the e-mails and all the metadata on the  
3 e-mails and all attachments were sent between Novartis and  
4 ZHP, which is obviously a watershed moment in this entire  
5 saga, because that's when the issue was brought to the  
6 attention of ZHP and then to the regulators.

7           So the fact that we don't have that done and we're  
8 told in the letter, well, we're going to be continuing to get  
9 documents to you over the next few weeks, that tells us, is  
10 very concerning because if something that clear has not been  
11 taken care of yet, it raises a whole host of questions.

12           The second really glaring area that we thought was an  
13 easy area to present at this first step is the testing, both  
14 the testing for NDMA when they went back to the pills to test  
15 and the chromatography testing by the API manufacturers who  
16 were testing the batches to make sure that the peaks matched  
17 up to the ingredients which we believe, once we have those  
18 complete records, we'll be able to show that the defendants  
19 have all the information they need to identify the NDMA back  
20 at the start and when they were in production.

21           So those were a couple of very, you know, clear  
22 examples to us and nobody has said they've completed  
23 production of any of the testing, and we just -- we really  
24 feel like we need at this point certainty on that, so that --  
25 and really hopefully, you know, cemented this for the

1 defendants to start to really work with us on the  
2 prioritization and exchange information and tell us what  
3 they're doing and give the Court some certainty that this is  
4 happening.

5 I'll put aside the additional custodians as a  
6 separate subject.

7 JUDGE SCHNEIDER: Well, I did read the defendants'  
8 letter that was attached to Mr. Goldberg's letter and as I  
9 read those letters, they appear to indicate that -- I think  
10 there was only one of the parties, this might have been Teva,  
11 I'm not sure, I'm not a hundred percent sure, but only one of  
12 the parties was asserting privilege objections. Everybody  
13 else represented that there's nothing to put on a privilege  
14 log, but at least to date, they're not asserting any privilege  
15 objections, and if I remember correctly, I don't have the  
16 letter in front of me, what Teva defendants said that they  
17 were withholding documents on privilege grounds. I think they  
18 said the privilege log is in the works.

19 Am I wrong about that, Mr. Slater?

20 MR. SLATER: I think that's generally what was  
21 stated. It's just that, for example, it really at this point,  
22 we don't want to have to keep checking on issues that are that  
23 simple, obviously. So if it's in the works, from our  
24 perspective, the ESI protocol said it should be served with  
25 each production and if a defendant has no privilege redactions



1 and those documents would help, it's very easy for them to  
2 just say that their production -- there's no production,  
3 there's still no privilege log, because we have not withheld  
4 or redacted anything. I mean, at least then we'll be up to  
5 date and we won't have to keep asking and they're supposed to  
6 under the protocol just tell us. So if that's the case and  
7 they never withhold the document, that makes it easy, but they  
8 should tell us.

9 JUDGE SCHNEIDER: Mr. Goldberg, let me just butt in  
10 here. I think that's a good idea, rather than plaintiff  
11 assuming that if there's no privilege log, then nothing is  
12 withheld. I think the better course of action would be with  
13 the defendants' additions, if they indicate that the reason no  
14 privilege log is being produced is because no documents were  
15 withheld, and if the ESI protocol has a deadline for producing  
16 the logs, then defendants have to comply with that.

17 MS. LOCKARD: Your Honor, it's Victoria Lockard from  
18 Teva. If I may, because we are the party who addressed this.  
19 We have produced documents that have some redactions,  
20 privilege, and potentially have been withheld for privilege  
21 and we are preparing a privilege log, you know, the ESI  
22 protocol itself does not state that privilege log has to be  
23 provided simultaneously with every interim production.

24 You know, we don't agree that it's that clear, you  
25 know. We do agree, we have an obligation to provide one and

1 we intend to provide one, but if we are to provide privilege  
2 logs on the day of the production, I can tell you, it is going  
3 to significantly slow down the process and, you know, we'd  
4 like to avoid the scenario where we're bottlenecking, actually  
5 giving the records -- the documents over to plaintiffs,  
6 because we have to send them, you know, through a privilege  
7 review of our privilege set, get the log created so that we  
8 can get that submitted.

9           So, you know, what we had proposed in the letter is  
10 that we meet and confer with counsel to actually agree to some  
11 sort of timeline for how quickly these need to be produced on  
12 a trailing basis after the rolling interim productions are  
13 made. That, to me, seems much more efficient and will ensure  
14 that plaintiffs are getting the documents they need, you know,  
15 and we certainly intend to provide the privilege log. You  
16 know, there's no prejudice to them if it takes, you know, 60  
17 days to get the privilege log submitted after a production.

18           JUDGE SCHNEIDER: I think your comment that it's more  
19 important to produce the documents than the logs is correct.  
20 Rather than meeting and conferring, let's just agree on a date  
21 now, if it's not clear in the protocol how long after a  
22 rolling production a privilege log has to be produced, you  
23 mentioned 60 days.

24           Any objection, Mr. Slater?

25           MR. SLATER: Yes, Your Honor. The protocol is clear.

1 They're supposed to update these logs with each production.  
2 I've never had a defendant ever say they couldn't comply with  
3 that. I'm not really sure what this bottleneck issue is.  
4 It's just a log. You know, frankly, I would prefer not to  
5 change the protocol at this point, because it says that  
6 they're supposed to do it as it rolled out. I'm not sure how  
7 there could be a different reading.

8 But I mean, if they want to have, you know, two days  
9 or something after, that's fine, but this has to be -- it's a  
10 rolling process, so if they're talking 60 days, we're going to  
11 talk about getting our last privilege log in January or so? I  
12 mean, we really can't agree to push this out. It's a basic  
13 thing that was -- that's in the protocol already. So if they  
14 need a couple days after the production, that's not the end of  
15 the world, but to update, but it's never been an issue. I've  
16 never had a defendant say they couldn't do it. So I'm not  
17 really sure what this issue is.

18 JUDGE SCHNEIDER: I'm looking at the ESI protocol  
19 now. I agree, if it's clear in the protocol, I'm not going to  
20 change the order, but do you -- can you point to a specific  
21 page or paragraph that --

22 MR. PAREKH: This is Behram Parekh. It's at  
23 Paragraph A on Page 16.

24 JUDGE SCHNEIDER: Page 16.

25 MS. LOCKARD: It does not say anything about the

1 rolling production, Your Honor, because when this was  
2 negotiated, there was no schedule for rolling or interim  
3 production. Our production in response to the RFPs, and the  
4 ESI effort is due on November 2nd.

5 Now, there are interim milestones for production  
6 throughout that time, but there's nothing in the ESI that says  
7 it has to be made with every interim rolling production.  
8 That's not how we read it. And, you know, if that's just a  
9 different interpretation, so be it. But the practical matter  
10 is, it is going to slow down the process of getting the  
11 documents out, because we will have to divert resources to  
12 that effort, and there's no reason that plaintiffs need the  
13 privilege log immediately on the day that production is made.  
14 There's just no -- there's no reason for it. It's not  
15 efficient.

16 JUDGE SCHNEIDER: Okay. Let's move on. I see  
17 Paragraph A. It could be read to say -- it says, quote  
18 unquote, each production. It doesn't say rolling production.  
19 It says, "Each production" which, in my view, anticipates more  
20 than one.

21 But be that as it may, the most important point is to  
22 get the documents in plaintiffs' hands. So let's say within  
23 30 days of the rolling production, a privilege log has to be  
24 produced and I assume that when the production is made, it  
25 will be made clear, yes or no, whether any documents are being

1 withheld on the grounds of privilege.

2 So that's the privilege issue.

3 On the prioritization issue, Mr. Slater, you know, I  
4 have this comment, that we've been through this issue many,  
5 many, many times before. If you talk with defendants and you  
6 can't work it out about these prioritization issues, send me a  
7 letter and be as specific as possible what documents you want  
8 to move to the forefront, and I'll order that they have to be  
9 included in the next production, unless there's good cause to  
10 excuse their production.

11 The testing documents, we've been talking about this  
12 since the fall. So I don't disagree that they should be at  
13 the top of the list. E-mail is a little bit different, that's  
14 a lot broader category, but certainly the testing documents,  
15 we've been talking about those for months and months and  
16 months, and I would anticipate that they would be at the top  
17 of your prioritization list as well as the defendants' efforts  
18 to produce those documents.

19 So if you can't work it out with defense counsel,  
20 send me a letter, tell me what you want prioritized and I'll  
21 just order it, okay?

22 MR. SLATER: Yeah, I mean, I can tell Your Honor for  
23 purposes of this call, the testing, both for NDMA and for  
24 chromatography of the API, et cetera, the quality testing that  
25 was done during the production processes. That stuff, you

1 know, we want that as soon as we can get it. We thought it  
2 was going to be all produced to us in the initial productions,  
3 it's noncustodial, that's what we were told. So the idea that  
4 it's still going to come -- so that's one thing that we could  
5 ask for. I don't see how there could be an objection to a  
6 date certain in near future.

7           The second area again that we touched on in our  
8 letters, Novartis documents with ZHP. There's -- they know  
9 exactly who was involved in that. It was the major -- it was  
10 the major point on which the contamination became known and it  
11 was obviously the thing that triggered the notification to the  
12 FDA and the recall.

13           So we're at August 26, and don't have that, when the  
14 production started six weeks ago, that's another area that  
15 they should be able to, if they -- I mean, I can't imagine  
16 they haven't already done it, pulled all those documents  
17 together and get them to us as soon as possible because our  
18 experts certainly really need all the testing and all the  
19 Novartis documents.

20           JUDGE SCHNEIDER: When is the next rolling  
21 production?

22           MR. GOLDBERG: September 1st.

23           (Crosstalk)

24           MR. GOLDBERG: Your Honor, this is Seth Goldberg.  
25 I'll just respond briefly on these points about -- based from

1 ZHP's standpoint, testing and Novartis, which are  
2 ZHP-specific, and I can assure you that my colleague, Joe  
3 Ferretti has been meeting and conferring with Mr. Slater's  
4 colleague, Behram Parekh. They have reached some agreements  
5 as to the production of batch records which we'll be producing  
6 on Friday. We will be producing nitrosamine testing records  
7 this Friday, as well as documents from the priority  
8 custodians, a lot of Novartis documents, documents relating to  
9 Novartis have been produced in core discovery and already, you  
10 know, there are likely documents relating to Novartis within  
11 the e-mail of custodians.

12 Your Honor may recall the first custodial production,  
13 at least for ZHP, is to begin on September 1st, and so Friday,  
14 plaintiffs will be getting a lot of the information you're  
15 looking for and, of course, this is a rolling production, not  
16 everything that they want is going to be produced on Friday,  
17 but we are most certainly doing what Your Honor asked us to  
18 do, which is to adhere to their prioritization in good faith,  
19 which we are doing, and we'll continue to do and we'll  
20 continue to meet and confer on these issues.

21 JUDGE SCHNEIDER: Mr. Slater, it sounds like you're  
22 going to get a good deal of what you want by September 1st,  
23 and I would anticipate no later than October 1st you should  
24 have the bulk of what you want from the defendants in terms of  
25 the priority documents.

1 MR. SLATER: I hope so, Your Honor, but I -- you  
2 know, hearing that the documents are going to be produced and  
3 that they're in process is wonderful. A deadline by which  
4 these key documents have to be produced, I think without that,  
5 we're going to be having this conversation in October again.  
6 It's just going to keep going, because until there's a firm  
7 deadline on these points, I have no confidence that we'll be  
8 able to get to finality on them, and it could be very  
9 important documents that are the straggler documents. You  
10 know, it could just be, oh, well, with these couple of  
11 preproduction ramp-up documents on some API testing, we just,  
12 you know, pulled those together for you the end of November  
13 when there are potentially in other key documents showing the  
14 peaks.

15 Again, I'm making up that scenario because I don't  
16 have the documents, but that's the type of thing we're looking  
17 for.

18 And just leaving it open like this, to me, tells me  
19 we're going to be arguing over key documents until the end.

20 JUDGE SCHNEIDER: I got it. I'll take care of it in  
21 the next order to be entered, something to the effect that by  
22 October 1st -- I'm not quite sure of the language yet, but  
23 something to the effect, the bulk of the documents or -- I'm  
24 not quite sure, but there will be something in the next order  
25 that takes care of that.



1 MR. GOLDBERG: Your Honor, this is Seth Goldberg.

2 JUDGE SCHNEIDER: Hold on. I was just going to add,  
3 Mr. Goldberg, there has to be a safety valve for the  
4 defendants that -- well, it just might be the case that --  
5 undue difficulty getting all of these documents.

6 So there will have to be some safety valve.

7 MR. GOLDBERG: Your Honor, I will just -- I would  
8 just like to respond, because this is -- this is -- what just  
9 occurred is really a relitigation of the prioritization issue,  
10 which Your Honor decided a few months ago, in conjunction with  
11 setting a rolling production, and said to prioritize  
12 custodians, prioritize certain kinds of documents, and  
13 instructed the parties to act in good faith to do that.

14 And the parties are doing that, and the concern I  
15 have with Your Honor changing that order now, as we have set  
16 up our workloads and adhered to the prioritization and now are  
17 being asked to advance the rolling production to October 1st,  
18 is going to put a burden on the defendants when this issue is  
19 already litigated and decided, and if every time we have a  
20 court -- a conference, plaintiffs can raise an issue that has  
21 already been decided and relitigate that issue, we cannot have  
22 -- we cannot meet the Court's deadlines, we cannot satisfy our  
23 clients and work with our clients in an efficient way to get  
24 the information to plaintiffs.

25 There is no -- there are no defendants that are not

1 attempting to meet the prioritization. They've identified the  
2 key custodians they want. My understanding is all of the  
3 defendants are front-loading those custodians and plaintiffs  
4 are getting that information. Whatever documents they had  
5 prioritized, they are getting that.

6 And to change the orders that Your Honor has issued  
7 months ago is going to really create a problem for defendants,  
8 and it seems that that is what is happening on every one of  
9 these case management conferences, and of course, we're going  
10 to have three more months of rolling productions and every  
11 month, or every two weeks, plaintiffs are going to say there  
12 are deficiencies, there are problems, things aren't yet  
13 produced. But that is the nature of a rolling production, and  
14 Your Honor has been very clear with defendants that what Your  
15 Honor doesn't want is a document dump in December, and that's  
16 very clear -- or November, and that's very clear to  
17 defendants.

18 I would say that while Mr. Slater is saying to Your  
19 Honor that there are things that are missing, that Your Honor  
20 adhere to the order that you previously entered, which is a  
21 rolling production, prioritize based on plaintiffs'  
22 prioritization without any changes, let us produce our  
23 documents, let's deal with real issues on a biweekly basis and  
24 we'll get to the end of this production in a way that's  
25 satisfactory to plaintiffs and the Court.

1 JUDGE SCHNEIDER: Okay. Mr. Slater, we dealt with  
2 the privilege log issue, they're working out the compliant  
3 production log issue. We touched on the prioritization issue.

4 What's the next issue you want to address?

5 MR. SLATER: This is an issue that I think it's the  
6 right time to start the discussion, which is this: In  
7 reviewing the documents, the few documents that have been  
8 produced so far, we gave some examples in the letter of a few  
9 people that it became clear to us were people that should have  
10 been identified as custodians upfront by the manufacturers  
11 that were not, and this is based on what we're reviewing, and  
12 we gave the information in the letter, and these are cut-down  
13 lists. These are just a few people. We didn't -- there's a  
14 lot of people we're learning about that we probably should  
15 have been told about, but we're trying to be very narrow and  
16 make these, you know, easy ones.

17 So we don't expect Your Honor today to say these  
18 additional custodians need to be searched, but, you know,  
19 there's only a few. We've given some background on them. The  
20 defense was, no, no way. So that seemed to us something that  
21 we needed to alert the Court to, that we know that we need to  
22 talk to the defense, but we don't want to leave this until the  
23 end.

24 We'd like to, as we identify people that matter, be  
25 able to talk to them and bring that to the Court just because

1 we don't want to have to do a whole new set of work at the  
2 end. I was going to -- yeah, we hope there's not going to be  
3 a lot of new people, and again, for ZHP, we listed three and  
4 it turned out one of them is just known by another name, so we  
5 already had the person under a different name, so that was  
6 fine. But it's two people.

7 We just -- I think we need to be able to talk and I  
8 think we need to get this keyed up for the next conference but  
9 we wanted to put it before Your Honor because we got the sense  
10 from the defense's response that there's no understanding on  
11 that side that custodians can be added under certain  
12 circumstances.

13 MR. GOLDBERG: Your Honor -- go ahead, I'm sorry.

14 JUDGE SCHNEIDER: Let me just add before we hear from  
15 you, Mr. Goldberg. I'm not going to make a ruling on this  
16 issue today, because we don't have a record.

17 The Court has said there has to be established good  
18 cause. I haven't heard really why there's good cause yet and  
19 I haven't heard ZHP's response, but, you know, one thought I  
20 had was, it just is not productive to do this on a piecemeal  
21 basis that every phone call we're going to deal with one or  
22 two or three custodians. I mean, I would hope there would  
23 come a time when there would be one omnibus request and we'll  
24 deal with it, rather than dealing with piecemeal requests.

25 If you think you're ready to tee up these issues,

1 these custodians, and they're that important, you know, submit  
2 a letter brief in a week, defendants respond in a week and  
3 we'll tee up the issue for the next phone call, but certainly,  
4 we can't decide the issue today.

5 Mr. Goldberg?

6 MR. SLATER: No, we're not asking you to, Your Honor,  
7 and we'll try to talk to the defendants and maybe we can reach  
8 some common ground.

9 MR. GOLDBERG: Your Honor, I don't want to belabor  
10 the point since we're going to talk about the issue, but I  
11 just -- I do want to comment on Mr. Slater's point, the  
12 defendants seem to be rejecting these out of hand and don't  
13 appreciate that plaintiffs may want to add custodians. It's  
14 just that the three custodians they've identified at least for  
15 ZHP were objectionable on the face of their request. One of  
16 them is already a custodian. The second one is a custodian  
17 they originally proposed, but did not in their list of 140,  
18 but when Your Honor asked them to pare down to 81, did not  
19 select that person, and of the two documents that that person  
20 is on, there are at least five other custodians that are  
21 already -- that are on that document, too, and the third  
22 custodian is also on documents with other custodians, and that  
23 person is a business development manager in Spain, and, of  
24 course, the sale of Valsartan in Spain and Europe is not at  
25 issue here.

1           And these things were all obvious on the face of the  
2 documents that plaintiffs provided. And, you know, Your Honor  
3 may recall, this was a painstaking process to get to a list  
4 for ZHP of 81 custodians, far more than any other defendant,  
5 that included the interview of Jun Du, J-U-N D-U, with Your  
6 Honor present, and included the benefit of core discovery, and  
7 so, you know, we understand the standard to -- for cause here  
8 to be fairly high, and on the face of these documents, these  
9 custodians or proposed custodians certainly would not satisfy  
10 that standard.

11           But we're happy to work with plaintiffs on this  
12 issue. I'm sure all defendants will be happy to meet and  
13 confer on these issues and agree, Your Honor, that doing this  
14 piecemeal may end up to be fairly inefficient.

15           JUDGE SCHNEIDER: We should move on, but the comfort  
16 that the defendants can take is that as the Court has said  
17 time and time again, there has to be a showing of good cause  
18 to add or remove custodians, and we'll just leave it at that.

19           Any other issues, Mr. Slater?

20           MR. SLATER: I think the other issue that we raised  
21 that had some significance is the deposition protocol. Your  
22 Honor had brought that up and we submitted to Your Honor what  
23 we had sent to the defense over a month ago and we're just  
24 waiting to hear from them. So, you know, we're ready to move  
25 forward with that process. We just need the defense to let us

1 know if that protocol works for them and, you know, hopefully,  
2 we will get it entered soon.

3 JUDGE SCHNEIDER: Agreed. We ought to also talk  
4 about, if not today, soon, Mr. Slater, I think we need to hear  
5 from plaintiffs about their plan for these depositions, the  
6 protocol will take care of itself, the mechanics of the deps  
7 but, you know, is plaintiff going to start with -- with the  
8 API people, the finished dose people, individuals, 30(b)(6),  
9 start a discussion of how many and where, issues like that.

10 Is it too early, have the plaintiffs formulated a  
11 general plan about how they attempt to proceed with the  
12 deposition?

13 MR. SLATER: I think we probably need to come back to  
14 Your Honor with a plan. We are obviously talking about it on  
15 our end, and most of it is geared towards, you know, the  
16 production, getting the defendants' productions done, and I  
17 guess this harkens back to the -- the plans of litigation in  
18 terms of, you know, which defendants are going to be the  
19 likely -- likely defendant to trial, so we can focus on those  
20 defendants I think first.

21 I think, you know, that would be very helpful to us  
22 to have an understanding of just, for example, ZHP would be  
23 the first defendant along potentially with the finished dose  
24 manufacturers, you know, we would want to focus the  
25 depositions towards those defendants early on, just because it

1 would be more efficient and, you know, if that's also the plan  
2 for the class cert process, then that also helps us to know  
3 who we have to depose and what proofs we need for that  
4 briefing.

5 So I think it's a little bit -- we're going to have  
6 some understanding of, you know, how we're going to proceed,  
7 but, you know, and I think that will then trigger dates and  
8 trigger the order in which we would take depositions.

9 JUDGE SCHNEIDER: Well, I think you've got to get  
10 started on a plan before you get rulings on that issue,  
11 because if I recollect correctly, I think Judge Kugler said  
12 the motions -- after the motions are going to be decided, then  
13 I think it will clarify a little bit, you know, the trial  
14 plan.

15 But, what, your briefing is going to be done when,  
16 October, November?

17 MR. GOLDBERG: I was going to say, Your Honor, the  
18 motion to dismiss briefing is supposed to be completed around  
19 the third week of October, I believe.

20 JUDGE SCHNEIDER: Yes, and I don't know when those --

21 MR. SLATER: I think, Judge --

22 JUDGE SCHNEIDER: -- decided, so we have to get a  
23 plan in motion before there's going to be a ruling on those  
24 motions.

25 MR. SLATER: Well, we'll present to Your Honor, you



1 know, maybe for the next conference, you know, an outline of  
2 the plan.

3 JUDGE SCHNEIDER: Okay, great.

4 MR. SLATER: I think in either case, it makes sense  
5 to start with the API manufacturers anyway, just to give you a  
6 little bit of, you know, a sense of where our thinking is,  
7 because that's obviously where it starts from.

8 JUDGE SCHNEIDER: Great. Mr. Goldberg, I think the  
9 point is well-taken. Can we have a definite date when the  
10 defendants are going to respond to the dep protocol that the  
11 plaintiffs served?

12 MR. GOLDBERG: Yeah, Your Honor, we -- and we put it  
13 in our letter, and then we're hoping to get it to them next  
14 Wednesday, September 2nd. I believe we -- as I said in the  
15 letter, we do think the Benicar protocol, you know, provides a  
16 good framework. There are -- there are obviously different  
17 circumstances here, we've got a number of defendants, you  
18 know, 50 or so defendants here. I think there were three in  
19 Benicar.

20 We have many more foreign national deponents from a  
21 number of different countries, some of which are going to  
22 require depositions in different locations, some of which  
23 there may be jurisdictional issues, and you know, Hague  
24 Convention protocols would apply, and what we're trying to do  
25 is collect comments from the defense group as to those issues

1 to make sure that we're, you know, we're incorporating them  
2 into our revisions to the protocol, and also as meet and  
3 confer discussions with plaintiffs on these issues.

4           It just may be that this is going to end up a little  
5 bit more complicated than just adopting the Benicar proposal  
6 outright, and, you know, COVID-19 obviously presents different  
7 issues, plaintiffs have proposed some language around that  
8 which, you know, we have to think through. So, you know,  
9 hopefully, next Wednesday, we'll have something to plaintiffs  
10 and that will be the start of some productive discussions  
11 about the protocol.

12           JUDGE SCHNEIDER: Yes, I think you're right,  
13 Mr. Goldberg, I don't think there's really any disagreement  
14 about the fact that the protocol is going to be a lot more  
15 complicated in this case than Benicar was. That's why it's  
16 good to start tackling these issues now starting in September,  
17 so we can have it all wrapped up so you can start taking  
18 depositions in the December or January time period.

19           We also have to -- I think the defendants should get  
20 together and talk about their plan for taking the -- at least  
21 the class reps' depositions. I would assume they want to take  
22 all of those depositions. Your group --

23           MR. GOLDBERG: Yep.

24           JUDGE SCHNEIDER: -- or all the defendant groups  
25 might want to start formulating some sort of a plan about how

1 they want to proceed with that. That's going to be a lot  
2 easier, I think, than the defendants' deps, and get some sort  
3 of, you know, summary to the plaintiffs and start chewing on  
4 it.

5 If you get -- if the plaintiffs get your comments by  
6 September 2nd, we can start talking about these issues during  
7 our mid-September phone call. I don't anticipate it's going  
8 to be finalized by then, but it's good to get a head start,  
9 which will give us plenty of time to have things finalized  
10 sometime in the fall. And so you're going to get that,  
11 plaintiffs.

12 Any other issues for the plaintiffs -- some of the  
13 issues overlap, but when we get to defendants' issues, we can  
14 talk about the fact sheets, order to show causes, et cetera.

15 MS. GOLDENBERG: This is Marlene Goldenberg for  
16 plaintiffs. I just wanted to chime in that on the fact sheet  
17 issue. We actually were able to work through a few of these  
18 issues last evening after the agenda letters had been  
19 submitted. So I just wanted to flag that as far as the cases  
20 are listed on -- I believe it's the second listing, it's the  
21 second table that's included in the defendants' agenda letter,  
22 there are -- my understanding from Golden law office is that  
23 the Needy case is going to be dismissed by the Golden law  
24 office. That's No. 1 on the second table that was provided by  
25 the defendants, and the Kim Thompson case also represented by

1 Golden law office. My understanding from speaking with them,  
2 that case is also going to be dismissed, and so I don't think  
3 we need any rulings from the Court on that case. And then the  
4 Wilson case, which is No. 4 on the second table, the attorney  
5 and defense counsel were able to come to an agreement last  
6 evening as well.

7 So of those four cases, the only one remaining is the  
8 second case on the table, which is David Stano's case.

9 JUDGE SCHNEIDER: I'd like to address that when we  
10 get to the defendants' issues, so we have it in chronological  
11 order. But it's heartening to see the parties are meeting and  
12 conferring on these issues.

13 Anything else for the plaintiffs?

14 MR. SLATER: I don't think we had anything that was  
15 pressing unless anybody else sees something else that they  
16 think that they need to raise, I don't think there was  
17 anything else from our perspective. This is Adam Slater for  
18 the record.

19 JUDGE SCHNEIDER: Mr. Goldberg, let's deal with your  
20 issues.

21 MR. GOLDBERG: Your Honor, I don't know that  
22 defendants have issues except for the plaintiff fact sheets.

23 JUDGE SCHNEIDER: Okay. Is there a request for  
24 orders to show causes?

25 MS. LOCKARD: Yes, Your Honor. It's Victoria

1 Lockard. We do have a request to show cause on --

2 JUDGE SCHNEIDER: Okay. Let's save that for Judge  
3 Kugler. But I mean, are there any disputes about the cases  
4 you want orders to show cause issued on?

5 MS. LOCKARD: I think the only thing that I would  
6 add is that, you know, plaintiffs are stating that for two of  
7 these cases that, you know, they had heard that there will be  
8 a dismissal forthcoming at some point from plaintiffs'  
9 counsel, and we don't think that should derail our process in  
10 seeking to show cause order.

11 We intend to seek a show cause order. If the show  
12 cause order is resolved in our favor, then we get a dismissal  
13 with prejudice and, you know, within that period of time, if  
14 plaintiffs dismiss the case, and that's fine, but just that  
15 oh, well some point, you know, need to go ahead and dismiss  
16 the cases or the Court needs to issue a show cause order on  
17 this. So we do not agree that, you know, the Court can just  
18 back down from those and take those off the list.

19 I will say as to the Wilson case, we have agreed.  
20 This is one where we did get a resolution yesterday and have  
21 agreed to take it off the list for this cycle in order to get  
22 the deficiencies resolved, which had been promised.

23 MS. McLAFFERTY: Your Honor, if I can jump in. This  
24 is Irene McLafferty from Messa Associates representing Raymond  
25 Betz.

1           Our case was one on the final list as the first  
2 listing of not having filed the PFS but we have filed the PFS.  
3 I'm not sure why we're on the list because it was uploaded to  
4 MDL Centrality on July 28. So I have instructed my office to  
5 directly send a copy to Mr. Goldberg and to refile it, but I'm  
6 not really sure, so I would object to an order to show cause  
7 being issued in that case.

8           JUDGE SCHNEIDER: Is that an issue that is -- there  
9 is a person that is the focal point to coordinate these  
10 discussions, right? Is that you, Ms. Lockard?

11           MS. LOCKARD: I am involved in that, yes. I'm one of  
12 the points for this issue.

13           JUDGE SCHNEIDER: So the counsel who just spoke,  
14 should she be talking with whoever your designee is?

15           MS. LOCKARD: Yes, she should, and we had a -- we  
16 have meet and confer calls scheduled periodically on these,  
17 and I don't believe this was addressed on that meet and confer  
18 call, but we'll be glad to talk. This particular case is a  
19 first listing, so we're not requesting a show cause.

20           JUDGE SCHNEIDER: Okay, good.

21           MS. LOCKARD: So there will be a meet and confer  
22 opportunity to try to resolve this, and if this is true that  
23 it's been submitted and it's complete, then we should be able  
24 to take it off the list before the second listing.

25           JUDGE SCHNEIDER: Okay. Great. Okay. So you're not

1 going to request -- you're not going to ask Judge Kugler to  
2 issue an order to show cause on that one, right?

3 MS. LOCKARD: Correct.

4 JUDGE SCHNEIDER: Okay. Great. All right. Anything  
5 else we need to address on this call?

6 MR. GOLDBERG: Nothing from defendants, Your Honor.

7 JUDGE SCHNEIDER: Okay. Let me make a suggestion,  
8 just to make it easier. I'll hang up from this call, let  
9 Judge Kugler know, you know, we're ready to proceed, and I  
10 would anticipate that he'll get on the line no later than  
11 11 o'clock. So if you can -- if you want to hang up and call  
12 back in, or better yet, just hang on the phone and maybe just  
13 start talking about whatever you have to talk about, I'll just  
14 alert Judge Kugler to what we talked about, and whatever  
15 issues you want to raise with him are fine. I know the order  
16 to show cause issue is going to be raised.

17 I hope when I hang up, or at least put the phone on  
18 hold, it doesn't disconnect everybody. If it does, call back  
19 in at 11, okay?

20 MR. SLATER: We will.

21 JUDGE SCHNEIDER: Okay. Thanks, everybody.

22 RESPONSE: Thank you, Judge.

23 (Recess 10:50 to 10:59 a.m.)

24 JUDGE KUGLER: You want to talk about these listings  
25 and orders to show cause?

1 MR. SLATER: That's fine. Go ahead, Victoria.

2 MS. LOCKARD: Your Honor, Victoria Lockard, I'm going  
3 to address this part for -- on behalf of the defendant. So,  
4 yes, we have -- you have before you the defendants' position  
5 statement. We have two categories of cases.

6 The first are cases where the Court agreed to issue  
7 show cause orders at the last date -- last month, and we  
8 originally started with 12 of those cases. Judge Schneider  
9 indicated that show cause orders were issued on those,  
10 although I know we did not see the show cause orders come  
11 across, but be that as it may, we have, out of those 12 cases,  
12 we have resolved six of them or at least six of them have  
13 provided plaintiffs' fact sheets in the interim period and so  
14 today, we're seeking dismissals for the remaining six where no  
15 plaintiff fact sheet has yet to be filed.

16 JUDGE KUGLER: Let's go through them. Give me the  
17 captions on one through six, please.

18 MS. LOCKARD: Okay. So we have -- the first is  
19 Marcia Cantrell. You just want the last name?

20 JUDGE KUGLER: Last name and the docket number. If  
21 you've got the individual docket number, that would be  
22 helpful.

23 MS. LOCKARD: I do. It's Cantrell, the docket number  
24 is 2019-cv-14891.

25 JUDGE KUGLER: That's Cantrell, and it's 19-14891.



1           What's the next one?

2           MS. LOCKARD: DeShields, and the number is 20-01030.

3           The next one is -- I'll spell it, F-O-U-G-E-R-E,  
4 first name Therese and that is No. 19-17597, and the fourth  
5 one is Jones, Philip, the number is 20-cv-2795.

6           The next one is Pittman, Charleston, No.  
7 2019-cv-15638. And the sixth one is William, Charles,  
8 2019-cv-07632.

9           JUDGE KUGLER: All right. Anybody want to be heard  
10 on behalf of the plaintiffs on these matters?

11           MS. PADDEN: Kristin Padden from Douglas and London.  
12 Kristin Padden, P-A-D-D-E-N, is the last name, and we  
13 represent Plaintiffs DeShields and Jones. I'll address Jones  
14 first. We served a plaintiff fact sheet last evening on --  
15 through MDL and Centrality, we also sent a courtesy copy to  
16 Seth Goldberg last night. We believe the fact sheet is  
17 materially complete. It's been signed by the plaintiffs and  
18 it should meet all of the requirements, so we believe he  
19 should be removed from this list. I apologize for the  
20 lateness, we just received it yesterday and managed to upload  
21 it last night.

22           JUDGE KUGLER: Okay.

23           MS. PADDEN: For Ms. DeShields, we have unfortunately  
24 been unable to speak with her for quite some time. The last  
25 time we spoke with her was several months ago and she had

1 advised us that due to the length of the fact sheets, she no  
2 longer wanted to proceed with her case. We have been trying  
3 to memorialize that in writing from her, so that we can either  
4 secure a stipulation to dismiss her case or produce the  
5 plaintiff fact sheet.

6 At this time, we would respectfully request an  
7 additional 30 days to try and get her to sign off on  
8 dismissing her case, or if it needs to be dismissed at this  
9 point, we would ask that it be done without prejudice as we  
10 haven't been able to reach her. We've also been trying to  
11 reach family members of her to -- that were initially  
12 responsive and are no longer responsive and we're just trying  
13 to basically get her consent to dismiss the case at this  
14 point.

15 JUDGE KUGLER: Ms. Padden, I appreciate all of your  
16 efforts to try to come to a resolution on the DeShields  
17 matter, but I'm going to deny your request and we're going to  
18 grant the defendants' motions to dismiss Cantrell, DeShields  
19 and I guess you pronounce this Fougere, F-O-U-G-E-R-E,  
20 Pittman, and Williams.

21 As to Jones, anybody on the defense side want to  
22 comment? Ms. Padden says they submitted that last night.

23 MR. GOLDBERG: Your Honor, this is Seth Goldberg, and  
24 I am going back to my e-mail from last night and I do see an  
25 e-mail from Ms. Padden at 7:06. I did not see that last

1 night. I think last month or maybe two months ago during our  
2 conference with Judge Schneider, we tried to clarify for  
3 plaintiffs who on our defense team should receive these kinds  
4 of e-mail, because others are really focused on these issues.  
5 So I'm going to forward this to our colleagues and they can  
6 get in touch with Ms. Padden and talk about Jones. But I'd  
7 say it doesn't need to be dismissed today.

8 JUDGE KUGLER: We'll carry this for another listing  
9 then, this Jones matter, and we'll clean it up next time.

10 Would you give me the second listing on Page 3 of  
11 your letter? I can't follow this, because in the body of your  
12 first paragraph, you say there are six cases but you only list  
13 four, and you asked for an order to show cause, but there  
14 seems to be a second listing. So what is it you want me to do  
15 with these four or six cases or whatever it is?

16 MS. GOLDENBERG: Your Honor, this is Marlene  
17 Goldenberg. Before we go off of the last list, I've been  
18 serving as liaison counsel for all of the plaintiffs who have  
19 cases on this list. And the attorneys from the Law Offices of  
20 John D. Sileo on No. 5 on the first table have told me that  
21 late last night, they submitted the PFS for Charleston Pittman  
22 as well.

23 MS. LOCKARD: And, Your Honor, we did review the  
24 Pittman. This is Victoria Lockard. We did see that one and  
25 we refused that one and it still is woefully deficient and we

1 do believe there are significant core deficiencies throughout  
2 that plaintiff's fact sheet and at this late date, to serve  
3 it, you know, the evening before show cause order of dismissal  
4 is set to be imposed and we just don't think that's  
5 sufficient.

6 Now, my colleague, Steve Harkins can address the  
7 specific deficiencies within that plaintiff's fact sheet if  
8 Your Honor desires, but we still think that should be  
9 dismissed.

10 JUDGE KUGLER: Well, I don't have it before me, so  
11 it's kind of tough for me to make a decision on whether it  
12 complies with the requirements without seeing it.

13 MS. LOCKARD: Right. Unfortunately, we just -- it  
14 was just served on us late last night, so we were not -- so  
15 you do not have that before you.

16 JUDGE KUGLER: Well, is it signed by the plaintiff?  
17 Let's start with that.

18 MS. LOCKARD: I'm going to refer to Steve Harkins so  
19 he can address the specific questions about the Pittman fact  
20 sheet.

21 MR. HARKINS: Hi, Your Honor, this is Steve Harkins  
22 from Greenberg Traurig for the Teva defendants in the defense  
23 group. We did receive a plaintiff fact sheet from Ms. Pittman  
24 at 9:53 last night. The plaintiff fact sheet is signed.  
25 However, it does not indicate use of Valsartan, it does not

1 claim an injury, cancer or otherwise. It does not claim any  
2 damages with respect to the case.

3 Large portions of it that we think are basic and core  
4 case information have been left entirely blank, and we're  
5 perfectly willing to work with the plaintiff's individual  
6 counsel on resolving those types of deficiencies, but other  
7 than indicating Valsartan use with no specificity and not  
8 providing any records actually demonstrating Valsartan use,  
9 you know, there's nothing at all for us to even evaluate on  
10 this plaintiff fact sheet, so we would still ask for dismissal  
11 with respect to this case.

12 I would note that this was originally filed in  
13 January. The first plaintiff fact sheet should have been due  
14 in March. This case is now five months overdue and this is  
15 the third time it has been present on the Court's agenda list.

16 MR. NIGH: Daniel Nigh for the plaintiffs. I want to  
17 reiterate that in Benicar, we did exactly what Your Honor  
18 stated initially, which is if it's a verified PFS that's  
19 submitted, as soon as that occurred, then it goes through the  
20 deficiency stage. So here, we would just ask and request  
21 that, you know, now that there's a verified PFS that's been  
22 submitted, you know, the deficiency stage rolls through, that  
23 this plaintiff had time to cure the deficiencies that they had  
24 with the evidence.

25 JUDGE KUGLER: All right. Well, we'll transfer this

1 one to next month, the Pittman matter. Try to work out your  
2 deficiencies. If you can't work out your deficiencies, you  
3 can tee it up with the next conference and I'll make a  
4 decision if there's still a contest over whether that case  
5 should be dismissed.

6 MS. LOCKARD: Thank you, Judge.

7 So that brings us to the new listing, and I believe  
8 there are just four that are on the chart. I think our letter  
9 said six, but this has been a rolling process with working out  
10 some of these issues and trying to whittle this down to the  
11 final list. So I can go through those.

12 We have the Needy case, which is 19-cv-15051, the  
13 second is Stano, David, 19-cv-18080. The third is the  
14 Thompson, Kim case, 19-cv-15135, and the last on the list --  
15 actually, it's the last on the list is the Wilson Winifried  
16 case, and we have agreed to take that off of the show cause  
17 list as of late yesterday. So if I may correct my statement,  
18 we're just seeking show cause on the first three.

19 Now, there has been an indication that plaintiffs'  
20 counsel intends to dismiss two of these cases, I believe the  
21 Needy and the Stano case, however, they haven't been dismissed  
22 yet and we don't think that should interrupt the process that  
23 the Court has in place for any show cause orders. We would  
24 like to get a show cause order entered, and if plaintiffs'  
25 counsel seeks to dismiss voluntarily in the interim before the

1 next CMC, you know, certainly that's their prerogative.

2 JUDGE KUGLER: For the plaintiffs, any objection to  
3 issuing an order to show cause, why these shouldn't be  
4 dismissed for the three remaining plaintiffs, which are Needy  
5 and Stano and Thompson?

6 MS. GOLDENBERG: Your Honor, this is Marlene  
7 Goldenberg for the plaintiffs. I did just want to correct one  
8 statement. My understanding is that the two cases that are  
9 going to be dismissed are Nos. 1 and 3 on the table and that's  
10 Needy and Thompson.

11 We are not going to object to the show cause orders  
12 because these cases -- because plaintiffs' counsel for those  
13 clients have indicated that they want to dismiss those cases  
14 anyway. I will point out that there are some reasons here  
15 that the defendants have listed that we don't believe are core  
16 but because the cases are going away anyway, we don't feel  
17 it's necessary to use the Court's time to argue those today.

18 JUDGE KUGLER: Okay. Those three will be listed for  
19 an order to show cause why they shouldn't be dismissed at the  
20 next meeting.

21 And then that leaves a whole bunch of first listings.

22 MS. LOCKARD: Yes, and, Your Honor, we have now  
23 worked out what I think everyone agrees is a pretty good  
24 process for the back and forth on this with periodic meet and  
25 confers which our firm and Ms. Goldenberg's firm are leading,

1 and so that has been a good process for getting these whittled  
2 down. So I imagine this will be limited and reduced by the  
3 next time of the CMC, but we will just continue that process  
4 and then list whatever -- whichever cases we believe are for  
5 this process at that time if that suits Your Honor.

6 JUDGE KUGLER: Well, you have 19 listed up to  
7 Page 17, so we will relist them again for next month, see what  
8 happens. And then you have three more cases at Page 18 of  
9 your letter, where you say that fact sheets are overdue,  
10 correct?

11 MS. LOCKARD: Correct. Those are cases where no fact  
12 sheets have been submitted whatsoever, but it is the first  
13 listing on the Court's agenda.

14 MS. McLAFFERTY: Your Honor, if I could address No. 2  
15 on that list, Raymond Betz -- this is Irene McLafferty from  
16 Messa & Associates. We did file a plaintiff's fact sheet  
17 July 28th, so I'm not sure why that is going up on the list.  
18 My office checked this morning. It's listed as having been  
19 filed on July 20th on MDL Centrality. So that is something  
20 that needs to be taken off the list.

21 JUDGE KUGLER: Defendants have any knowledge of that  
22 on the Betz matter, B-E-T-Z?

23 MS. LOCKARD: Yes, Your Honor, we are aware of that  
24 case and have reviewed what has been submitted and provided  
25 that it is complete and not deficient on the core issues, we



1 will be taking it off of the list.

2 JUDGE KUGLER: All right. Let's take Betz off the  
3 list for the time being. We can always renew your application  
4 at the next case management conference.

5 MS. LOCKARD: Thank you, Your Honor.

6 JUDGE KUGLER: So Virginia Bowden or Bowden matters  
7 will be listed again for next meeting.

8 Anything else on these orders to show cause or  
9 listings that we want to talk about?

10 MS. LOCKARD: Not from the defendants, Your Honor.

11 JUDGE KUGLER: Any other issues for the plaintiffs on  
12 these listings?

13 MS. GOLDENBERG: No, Your Honor.

14 JUDGE KUGLER: Okay. Great. Anything else you need  
15 to talk -- I understand you had a conference, a productive  
16 conference with Judge Schneider. Anything else that we need  
17 to discuss with me at this point?

18 MR. SLATER: From the plaintiffs' perspective,  
19 nothing, Your Honor. I think we covered plenty of ground with  
20 Judge Schneider.

21 JUDGE KUGLER: Good.

22 MR. GOLDBERG: Same with the defense, Your Honor.

23 JUDGE KUGLER: Okay. Then let's -- they keep telling  
24 me I want to get you into a courtroom at the courthouse and  
25 things conspire against that. But I'm still trying to do

1 that. We do have a courtroom open. The biggest impediment,  
2 actually I see that meeting in the courthouse are the  
3 quarantine orders in effect in New Jersey. The governor took  
4 a bunch of states off yesterday but we still have 31 states  
5 and territories on our quarantine order in New Jersey.

6 So if you wanted to attend one of these meetings from  
7 out of state and you're on one of those states, you'd have to  
8 quarantine in New Jersey for 14 days, which I don't wish on  
9 anybody.

10 So let's -- let's tentatively plan on coming to the  
11 courthouse for our September meeting.

12 Now, I'll be in touch with you and I know you need  
13 some lead time if you're coming from out of state and,  
14 obviously, if these quarantine orders remain in effect at the  
15 end of September, I'm not going to make anybody come for that,  
16 but we're going to have to limit the number of people who come  
17 into the courtroom, because we need to keep the social  
18 distancing. So we're going to have to limit the numbers who  
19 come in. You're going to have to wear masks. We do have  
20 Plexiglass barriers up everywhere, by counsel tables, between  
21 the seats and all those kinds of things.

22 I'll be in touch with you, the Court will be in touch  
23 with you a couple of weeks in advance of that date and tell  
24 you where we stand and to give you more of the rules and  
25 regulations about coming into the courthouse at that time.

1 But I've done some things in the courtroom already, I  
2 mean, it's doable, but the biggest thing is the quarantine and  
3 limit the numbers of people who are coming. So you may have  
4 to choose among yourselves as to who is going to actually  
5 attend in person at these things.

6 All right. Anything else today, everybody? I hope  
7 everybody is well.

8 MR. SLATER: No, that's it, Your Honor. Thank you.  
9 Hopefully, we'll see you in person.

10 JUDGE KUGLER: I hope so. Talk to everybody soon.  
11 Stay well, stay healthy. Thank you very much.

12 RESPONSE: Thank you, Your Honor.

13 (11:22 a.m.)

14 - - - - -

15

16 I certify that the foregoing is a correct transcript  
17 from the record of proceedings in the above-entitled matter.

18

19 /S/ Karen Friedlander, CRR, RMR  
20 Court Reporter/Transcriber

21 August 26, 2020  
22 Date

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